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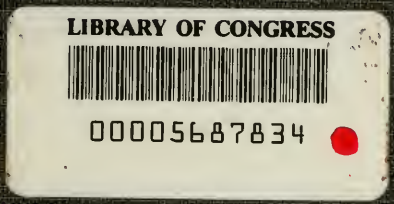

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MEMORIAL

OF THE

Hon. William L. Dayton,

Late U. S. Minister to France.

A MEMORIAL

OF

THE LIFE AND CHARACTER

OF

HON. WILLIAM L. DAYTON,

Late U. S. Minister to France.

BY JOSEPH P. BRADLEY, ESQ.

Prepared in conformity with a Resolution of the New Jersey Historical Society.

NEWARK, N. J.
DAILY ADVERTISER PRINTING HOUSE.
1875.

On January 19th, 1865, at a meeting of the New Jersey Historical Society, the following preamble and resolutions were adopted:

WHEREAS, Since the last meeting of the Society, the country has been called to mourn the loss of its able representative at the Court of France, the Hon. WILLIAM L. DAYTON, long a member and officer of this Society, a ready and cheerful promoter of its objects, and at the time of his departure on his mission, one of its Vice Presidents; therefore

Resolved, That this Society has to lament, in the death of the Hon. William L. Dayton, the loss of one whose place at the Bar, in the Senate, in the Cabinet, and in the recollections of Jerseymen is left vacant, and cannot soon be filled.

Resolved, That we deeply participate in the universal regret at his sudden and untimely decease, and that we sincerely sympathize with his family in their great and sore bereavement.

Resolved, That the character and services of Mr. Dayton as a distinguished and eminent Jerseyman, long occupying a large space in the public eye, are entitled to more than a mere passing tribute at the hands of this Society and his native State; and that a Committee be appointed to procure, if practicable, the preparation of some permanent and fitting memorial of his career.

The Chair appointed as the Committee referred to in the last resolution, Messrs. J. P. Bradley, Henry W. Green, and Frederick T. Frelinghuysen.

On the 18th May, 1865, Mr. Bradley submitted to the Society the following paper.

MEMORIAL.

William Lewis Dayton, late Minister Plenipotentiary of the United States to France, departed this life, suddenly at Paris, on the first day of December, 1864. He not only held an eminent official position at the time of his death, but he was a distinguished citizen of the United States, and a beloved and honored son of New Jersey. As such, and as a member of this Society, of long and honored standing, it is highly proper that some appropriate memorial of his life and services, should be recorded in our proceedings.

His own remarks made in this Society some years ago, are proper to remember now.

The Committee on biographies had made a report expressing some disappointment at the little success which had attended their applications to the descendants of distinguished Jerseymen for such sketches of their lives as the private or family papers might enable them to furnish, Mr. Dayton, in a few remarks made on the occasion, alluded to the importance to the State of securing authentic information respecting those whose names and deeds were indissolubly connected with her history. No people, he said, could expect to have their history written impartially and well by strangers, and not until Jerseymen exert themselves more, could they expect to be relieved from the injurious efforts of such authorship. Since then, he has himself become one of those whose name and deeds are indissolubly connected with the history of New Jersey; and it is the duty of this Society, in some way, to preserve a memorial of his career.

Mr. Dayton was born at Baskingridge, in Somerset County, New Jersey, on the 17th day of February, A.D., 1807. He was consequently, nearly fifty-eight years of age at the time of his death. Those fifty-eight years can hardly be surpassed in the world's history by any period of equal length in whatever appertains to the development of the material interests of society, and the advance-

ment and elevation of the people. During this period the steamboat, the railroad, the locomotive, the telegraph, the photograph and the penny press became powers under whose influence the civilized world has made such strides in material and political progress, that we seem to live in a new and different era compared with that which subsisted at the present century. The questioning and energetic spirit of the present age, imparts itself more or less to all who live in it. And to self-reliant and powerful minds like that of William L. Dayton, it furnishes a stimulus which almost infallibly urges them on to distinction and usefulness.

Mr. Dayton was just twenty years the junior of his distinguished fellow townsman, the Hon. Samuel L. Southard, and his mother, whose maiden name was Lewis, was a cousin of that distinguished Jerseyman. Both of them bore the maternal surname in their own name, and quite a remarkable parallel existed between their respective careers. Both being natives of Baskingridge, they received their early training in its celebrated school, Mr. Southard, under its founder, Dr. Finley, and Mr. Dayton under his successor, Dr. Brownlee. Both pursued their more advanced studies in the College of New Jersey, at Princeton, Mr. Southard graduating at the age of seventeen, and Mr. Dayton at eighteen. Both were admitted to the bar of New Jersey as attorneys at about the same age, Mr. Southard at twenty-four, Mr. Dayton at twenty-three, (the latter in the term of May, 1830); and both took the degree of Counsellor, as soon as their three years of probation as attorneys had expired. They both moved from their native county to commence the practice of law, and were both elected to the State Legislature, from the counties of their adoption, Mr. Southard being sent to the House of Assembly by the County of Hunterdon, at the age of twenty-eight; and Mr. Dayton to the Legislative Council by the County of Monmouth, at the age of thirty; and both were appointed to the bench of the Supreme Court during the first year of their legislative terms. They were, afterwards, both elected to the Senate of the United States, Mr. Southard at the age of thirty-four, Mr. Dayton at that of thirty-five; and both were afterwards appointed to the office of Attorney General of New Jersey. If Mr. Dayton did not, like Mr. Southard, become a cabinet minister, he became instead Minister

Plenipotentiary to one of the first governments of Europe, in difficult times, which required the performance of duties quite as arduous and responsible. Finally, they both died in the full prime of mature life—Mr. Southard at the age of fifty-five, and Mr. Dayton at fifty-seven; and during their respective careers both stood out with striking distinctness, as the most marked and eminent men of their native State.

Perhaps Mr. Dayton was sometimes conscious of this singular parallelism of destinies; perhaps it often awakened his ambition for honorable distinction, and stimulated his naturally sluggish energies to loftier exertions, more worthy of his great abilities, than he would otherwise have made. Example is a rare preacher; and nothing so tends to *create* great men in a nation or a community, as to have the example of great men to emulate, and their talents to grapple with in the struggle of honorable contest.

His early and rapid success in life, makes us think that he may also have been conscious of the shortness of life and of the necessity of working well while the day lasts, in order to accomplish any thing good or great. He may have felt that what he had to do he must do with all his might. This thought is beautifully and impressively expressed in his address before the Whig and Cliosophic Societies in September, 1843. He then said to the young men of his Alma Mater:

"Wait not for the strength of coming years. Experience asks no delay Now, every day and hour, is the time for effort. The intellect of age is surest; but, strange as it may seem, some of the grandest reaches of human thought have been the efforts of youth. Sir Isaac Newton has perhaps enlarged the sphere of human knowledge beyond all others. Fancy paints him a sage, as venerable for years as for wisdom. It is all a fancy sketch. His grandest discoveries were the efforts of his youth; he did little in scientific discovery after his meridian. The ground-work was laid before he was twenty-three. * * The measurement of time by the oscillation of the pendulum was the discovery of Gallileo before he had attaind his twentieth year. And although not maturing till late in life, we find him at the age of twenty-four in the mathematical chair of Pisa. * * Alexander the Great died in his thirty-third year; and his famed lament, so often used to point a moral, tells what he had done. There is another of our own era, who conquered and destroyed more than Alexander ever knew. Yet it was in all the freshness of youth that *he* stood at the foot of the Alps and pointed his ill-fed, ill-clad followers to their frozen summit. There is a moral sublimity in the unwavering confidence—the

stern self-relience of *this man* and his emphatic order, On! Over mountains covered with everlasting snows; amidst avalanches and glaciers; through the wild gorges between the Alps and the Apenines, self-sustained, and self-relying he led his followers on. * * But it is not in the field alone, but in the cabinet, that our own era furnishes illustrations in point. Who among the statesmen of the old world has left a brighter name than William Pitt? Who in the new than Alexander Hamilton? Addison had distinguished himself for correctness of style and elegance of diction at the early age of twenty-one. Pope's incomparable essay upon criticism was the production of a youth scarcely twenty."

When this was spoken he was already a member of the United States Senate, though only thirty-six years of age. Some of his friends, disinterested or otherwise, had expressed the fear that his progress was too rapid for his own permanent advantage. These words of his may be regarded as his own formal defence or apology for his early advancement.

Mr. Dayton's father was not wealthy. Although a man of considerable character and intelligence, he was a plain mechanic, and had to exert himself strenuously to give his children an education—a duty which was honorably and faithfully discharged; two of his sons being trained to the bar, and a third being educated as a physician. We are not surprised, therefore, that his son William, after leaving College, devoted a portion of his time to teaching school at Pluckamin, as a means of replenishing his resources whilst pursuing his professional studies. He studied law in the office of Hon. Peter D. Vroom, then residing at Somerville; but the interruptions to which he was subjected delayed his admission to the bar till May term, 1830, five years after he had taken his academical degree. The general impression made by him at this period was, that his talents were less brilliant than solid; and that by his mental constitution, though capable of much energy and power when roused to exertion, he was rather indolent and sluggish, than alert and active. No doubt the cause of this impression was the fact that Mr. Dayton was always more of a thinker than a mere student of books, and like Patrick Henry, was making more progress in his studies whilst musing with himself along the trout stream, or the fowling range, than in the dusty office, surrounded by the more dusty books. He paid sufficient attention to the latter, however, to lay in a sound stock of

common law learning and legal principles, which he ever wielded with readiness and tact in the conduct or consideration of any cause in which he was engaged.

Mr. Dayton never became, or made any pretentions to the character of a *legal scholar*—a class of lawyers who are often more learned than sound, and more knowing than safe. They will tell you about all the obscure and recondite cases which have been decided on any particular point; what this judge asserted, and what that jndge doubted; and yet be unable themselves to form any sound and definite conclusion on the subject—any conclusion for themselves or their clients to adopt as a rule. They will still doubt and hesitate, and fortify themselves with so many "ifs," and "ands," and "buts," that they only "darken counsel by words without knowledge," and leave those dependent upon them for advice, in greater doubt and distress than before. Or, if they happen to be of a positive disposition, ever ready to give their opinion at a breath, they are as apt to be wrong as right.

Great learning and great breadth of reading are not by any means to be despised; and if there is enough power of mental digestion to assimilate it, and make it contribute to real knowledge and depth, it is a great blessing; but if it burdens and overloads the brain, the reading had better be more limited, and better understood.

The law is a science of principles, by which civil society is regulated and held together, by which right is eliminated and enforced, and wrong is detected and punished. Unless these principles are drawn from the books which a student reads, and deposited in his mind and heart, his much reading will be but a dry and unprofitable business. On the contrary, if these principles are discovered *beneath* the dry husks of the text books and reports, if they are extracted, mastered and retained, it will not be so much the number of the books studied, as the success with which this digesting and assimilating process is pursued in studying them, which will make the great and successful lawyer.

It is precisely in this respect that Mr. Dayton was a profitable and successful student of the law. He had a large mind and strong common sense, which always led him instinctively to search for and seize the leading and governing principle which underlay a book or

case, studied or referred to, or a cause to be argued or tried. This trait characterized his reading and studies whilst a student at law, and his practice as a lawyer after he came to the bar. In the argument of his causes he always stood upon some broad general principle, or fundamental and striking view of his case; he could not stoop to mere technicalities.

The same characteristics distinguished him as a Judge. There was nothing he so much abhorred as to decide a cause on narrow precedents or minute technical points. This arose from his breadth of mind and great good sense. Strong, sound sense was the basis and most marked feature of his intellectual character.

His estimate of general principles as comprising the vital substance of the law, is well expressed in the address to which reference has been made.

"The law," says he, "is a science enlarged in its compass, and noble in its objects. It binds the elements of society together, keeping all its discordant materials in place. It has no mysteries, no uncertainties under which imposition can protect itself. In litigation there is no quackery, no infallible specific. Crowds never follow ignorant pretenders to legal knowledge into courts of justice to vindicate their civil rights. Notwithstanding that time out of mind, its glorious uncertainty has furnished a theme for the wit of the world; there is, perhaps, no science apart from mathematical truth, more fixed or certain in its principles. I speak not of local laws—of mere statutory provisions, but of that great system of principles which constitute the common law, and in which the science consists. * * They are something, be it remembered, apart from the fact in litigation * * They are a body of principles reduced from reason and experience—based upon the soundest morals and adapted to the varied wants of organized society. *These principles are fixed, and constitute the science. It is to the study of these principles you will assiduously devote yourselves.* Without *labour* in mastering, and *thought* in applying them, you can do nothing, literally nothing. Genius alone will be of as little avail as powder without lead; though full of it, you are but a blank cartridge; you may make a great flash and noise, but will send nothing to the *mark*."

I quote his *words* thus fully, because they chime in with the lessons of his *life*, and aid us in representing to our own minds a faithful image of his intellectual and moral personality.

After getting his attorney's license in May, 1830, he concluded to leave his native county and settle in Monmouth. He first located himself at Middletown Point, where he stayed about two years, and then removed to Freehold, the county seat; and about this period

was married to Miss Vanderveer, a daughter of Judge Ferdinand Vanderveer, of Somerville, who survives her husband. The Monmouth County courts, especially the circuit for the trial of Supreme Court cases, were at that period, attended by Gen. Wall, George Wood, Col. Warren Scott, Chief Justice Green, the late James S. Green, and others of equal eminence in the profession, besides the local lawyers of the place, Mr. Ryall, Judge Randolph, and others. The forensic contests of these men and forensic contest with them, furnished a most excellent school for the development of Mr. Dayton's peculiar powers. He very soon took rank as a young man of great promise.* Gen. Wall, who was a good judge of character, detected his undeveloped powers on first coming in contact with him; and meeting Mr. Vroom shortly afterwards, whom he knew to have been Mr. Dayton's preceptor, made particular enquiries about him, and predicted his future eminence.

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* A newspaper correspondent relates the following incident which took place in Freehold, at the November Court, 1833. A friend of the writer had been indicted for resenting an insult, and had employed Mr. Dayton, to defend him. The result of the case is told as follows: "It so happened that the outgoing sheriff, John M. Perrine, Esq., had summoned the grand jury and other jurors at the usual time, and that the recently elected and qualified sheriff, Thos. Miller, Esq., had made the return of the list or panel to the court, as "duly summoned," one sheriff summoning and the other sheriff returning the jurors of the term. Here was a *nut* which counsellor Dayton presented to the court to be *cracked.* He contended that the proceedings in relation to the jurymen were illegal and void, and moved the court to quash the indictment against the defendant, our friend Gravatt. Here was "a pretty kettle of fish." If one prisoner was discharged or remanded, all others would have the same claim upon the court—all indictments of the term would be null. Counsellor Dayton made a short, sensible and pointed argument. Attorney General White replied, and Judge Ryerson without hesitation, declared the indictment void. The defendent was discharged upon his own recognizance.

"All this was followed by a *buzz* through the then little village of Freehold. Young Dayton's name was upon every body's tongue. You could hear the exclamations "What! all the indictments quashed?" "No criminal business this term?" "That Dayton is sharp." "He knows more than we thought," with sundry similar expressions of commendation. From that day Mr. Dayton had no lack of clients."

They soon became warmly attached to each other, and the success of the younger advocate was a matter of just pride and gratulation to his generous senior, although he often felt the weight of those blossoming talents to his cost. When appropriate notice was taken of Gen'l Walls' death in the Supreme Court many years afterwards, Mr. Dayton is recorded to have spoken in a feeling manner of the character of the deceased; but when he came to speak of his personal relations with Gen'l Wall, the tide of recollection was too strong, large tears flooded his eyes, and he resumed his seat.

So rapidly did Mr. Dayton rise in the public estimation, both in regard to talents and character, that in 1837, he was chosen to represent the Whig party on their Legislative ticket as candidate for the Legislative Council. Monmouth was a strong Democratic County, having for five successive years elected the Jackson ticket by large majorities. But in 1837 came the great commercial crash, consequent upon the expansions, the extravagance, and the reckless speculations of previous years, and with it a revolution in the political world, which finally resulted in the defeat of Mr. Van Buren's administration, and the election of Gen'l Harrison to the Presidency. In 1837, the revolution commenced in New Jersey, and Monmouth was one of the counties which completely changed its political front. The entire Whig ticket was elected, and Mr. Dayton took his seat in the Legislative Council. The Whigs had a majority in both houses and retained it for six successive years, each year electing William Pennington, Governor. The legislature of 1837–8, of which Mr. Dayton was a member, in its Second Session, in February, passed one law which had a very important effect on the judiciary system of this State. Up to that period we had no county court of ordinary civil jurisdiction, except the Inferior Court of Common Pleas, so-called because the Supreme Court was a Superior Court of Common Pleas as well as a court of criminal and prerogative jurisdiction. The Inferior, or county court was composed of an indefinite number of judges, from three to a dozen or more, none of whom were ever, or rarely ever, selected from the bar, or for any legal knowledge they were supposed to possess. This constitution of the county courts rendered it necessary to bring all important litigation before the Supreme Court, either originally, or by a process of re-

moval from the Inferior to the Supreme Court, technically called a *habeas corpus cum causa*. The increasing population and business of the State caused to be felt the necessity of a local tribunal, having the confidence of the bar, and the people, and bringing justice at moderate expense home to every man's door. Mr Dayton was chairman of the judiciary committee of the Council, and in that capacity, as well as in his place as a member of the Council, he advocated the bill referred to, entitled, "An act to facilitate the administration of of justice," by which a county court of original and unlimited jurisdiction in civil cases, was created, to be called a Circuit Court and to be held by a judge of the Supreme Court, four times a year in each county. A circuit had formerly been held twice a year in each county, by the Justices of the Supreme Court, for the mere trial of jury causes in the Supreme Court; but the new Circuit Court, besides the trial of these causes, was invested with original jurisdiction in all civil cases, as before stated, and soon became and has ever since remained the most popular court of common law jurisdiction in the State. The new duties required of the Supreme Court judges by this law, which went into effect on the 14th of February 1838, rendered necessary an increase of judicial force, and the 1st section of the law added two additional judges to the Supreme bench. On the 28th of February the legislature in joint meeting, elected Mr. Dayton and John Moore White, then attorney general, to fill the new seats on the bench which the law had thus created. Mr. Field another member of the same Legislature, was appointed Attorney General in the place of Mr. Justice White.

The Supreme Court was originally composed of a Chief Justice and two associate Justices, called respectively 2d and 3d Justices. In March, 1798, a fourth justiceship had been added, and the Hon. Elisha Boudinot of Newark was appointed to fill it; but on the expiration of his term of office, in 1806, the legislature repealed the law, and left the bench with three judges (a chief and two associates), as before; which constitution remained until the passage of the law of 1838.

Judge Dayton, like his relative Judge Southard, was a young man for so distinguished a position, being only just turned thirty-one years of age; but it is generally agreed that in the discharge of its

duties, probably no man could have been selected, who would have exhibited greater ability, impartiality, or dignity than he. I have not the time on this occasion, to review any of his decisions, or to descant on the nature of the questions which came up in adjudication before him. But I may make the general remark, that his opinions were characterized by the same marks of good sense and sound discrimination, disentangled from small technicalities and mere matters of form, which the general character of his mind would naturally lead us to expect. His associates were Chief Justice Hornblower, and Justices Ford, White and Nevius. Justice Thomas C. Ryerson was on the bench when he was first appointed, but died in the following August. The Supreme Court of this State, during the time Judge Dayton was on the bench, continued to enjoy, as it always has done, the highest confidence of the State of New Jersey, and the respect of her sister states. Our judiciary, at least, is one of the things, to which we can point with just State pride.

On the 18th of February 1841, after three years of honorable service on the bench of the Supreme Court, Judge Dayton resigned that position, and returned to the practice of the law, in the city of Trenton, where he then resided. He had for some time contemplated this step; but was dissuaded from it until now by his brethren on the bench, and some of the leading members of the bar, "He will carry with him," said the leading journal of the State, "to the less arduous pursuits of private life, the consciousness and the credit of having discharged his public functions with honor to himself and the court." His judicial career having been thus brought to a close, we have next to consider him in public life, as the representative of New Jersey in the National Legislature.

Mr. Southard, after a lingering illness of several weeks, died at Fredericksburg on the 26th of June, 1842. He had for the second time, represented this State in the Senate of the United States, since March 4th, 1833. A little more than one-half of his second term had elapsed. Congress being in session, and the State Legislature not in session, it devolved upon Governor Pennington to appoint Mr. Southard's successor; and on the second of July, he appointed Mr. Dayton, who took his seat on the sixth. I think it may be justly said that the appointment was but in accordance with the general feeling and preference, of the Whig party in the State.

Mr. Dayton's senatorial career extended over a period of nearly nine years. His appointment to the unexpired term of Mr. Southard, was confirmed by the legislature on its first session in October, 1842; and in February 1845, he was re-elected for the full term, commencing in March of that year, and ending March 4th, 1851.

The period covered by these nine years, was a very important and eventful one in our history; and the chief actors in it, with whom Mr. Dayton was brought in contact, were historical characters, whose names will go down to the latest ages of the republic. During this period occurred the independence of Texas, its consolidation with our Territory, the Mexican War, the acquisition of California, New Mexico and Arizona; the slavery agitation which ensued upon this acquisition; the compromises of that subject, which were attempted, which were made, and which were broken; the settlement of our North Eastern and North Western boundaries with Great Britain. These were some of the absorbing topics which were discussed and disposed of in that interesting epoch, embracing the administrations of Tyler, Polk and Taylor, and the commencement of that of Fillmore.

When Mr. Dayton entered the Senate, he found there such men as Calhoun and Preston of South Carolina, Berrien of Georgia, Benton, William C. Rives, Silas Wright, Crittenden of Kentucky, James Buchanan, Levi Woodbury, Rufus Choate, Evans of Maine, Morehead of Kentucky, Willie P. Mangum, Phelps of Vermont, Robert J. Walker of Mississippi, and others, their fit peers and rivals in consultation and debate. Clay had delivered his celebrated valedictory, and resigned on the last day of March previous, in disgust at the ingratitude of Republics, as Benton ill-naturedly says, because his party had preferred Gen'l Harrison as a more available candidate. Webster was in President Tyler's cabinet, holding the portfolio of foreign affairs. He was just then negotiating the Ashburton treaty, which defined our North Eastern Boundary, and which was signed the 9th of August. He did not resign till the following year. He returned to the Senate, however, in 1845. Mr. Clay returned in 1849. In the course of his Senatorial career, Mr. Dayton also met in the Senate, Hale of New Hampshire, Dickinson, Dix and Seward of New York, John

M. Clayton of Delaware, Reverdy Johnson of Maryland, Badger of North Carolina, Mr. Duffie of South Carolina, Dawson of Georgia, Bell of Tennessee, Corwin, Ewing and Chase of Ohio, Soule and Downs of Louisiana, Jefferson Davis of Mississippi, Douglass of Illinois, Cass of Michigan, King and Clemens of Alabama, Hamlin and Evans of Maine, Fremont and Gwin of California. Mr. Miller of our own State was his colleague during the whole period.

This list of names is sufficient to show that no council in the world at that time. exceeded in dignity the Senate of the United States, and certainly no legislative body was charged with the discussion of more weighty questions or the settlement of more important national affairs. The organization of the national power in its ultimate form over half a continent, and the final consolidation of the national territory of this Western Republic, was the duty of the day and the hour.

The United States Senate Chamber at that period, was one of the grandest and noblest arenas for the exhibition of oratory and statesmanship. I remember well, and can never forget the impression made upon my mind, by the appearance and deliberations of this body, on the occasion of my first visit to Washington, in January, 1839. I had the good fortune to witness debates between most of the great men of that day,—Clay, Webster, Calhoun, Preston, Silas Wright, Benton, Southard, and their associates. I was then young, and of course open to vivid and deep impressions. But after making due allowances on this account, I must say that noth ing of which I ever read or heard, came up so fully to my conception of what is august, dignified, and grand in solemn and deliberative assemblies. Mr. Dayton, I need hardly say to this audience, for most of us remember it well, was equal to the place He was a fit representative of the gallant and conservative State from which he came. Although becomingly modest among the Nestors of the Senate, and although he was chary of his speech, deeming it the part of wisdom, rather to listen than to be too constantly listened to, he soon took rank among the ablest men of the Senate, and acquired the highest respect and esteem of his associates. And whilst his views were fixed and decided on most of the political issues of the day, and generally coincided with those of the party to

which he was attached, he relied, in an eminent degree, as he always had done, on his own independent judgment. Hence, when de did speak, there was an originality and force of thought, and earnestness of expression, which invariably ensured him the respectful attention of the Senate.

One of the first speeches made by Mr. Dayton on the floor of the Senate, was in vindication of the national credit, and the public faith of the government. It was in February, 1843. It was at a time, when, as some of us may remember, almost every branch of industry was prostrated, not having yet recovered from the financial crash of 1837. The government was without resources; the public securities had been offered to foreign capitalists, and had been declined. Among those, who for a long course of years had been decrying the general government and federal institutions, at the expense of state sovereignty, a continual snarl of dissatisfaction and depreciation of everything national was kept up, until Mr. Dayton's loyal feelings were aroused; he could stand it no longer. Mr. McDuffie of South Carolina, had offered some resolutions, declaring, first, that it was the solemn and urgent duty of Congress to adopt without delay, efficient measures to revive the crippled and decaying commerce, replenish the impoverished exchequer, and await the alarming accumulation of the public debt of the United States, (which at that time was less than forty millions); secondly, that a modification of the tariff to a mere revenue basis, so as to meet, in some sort, the free trade inclinations of Great Britain, and to circumvent the threats of smuggling along our Northern frontier was necessary; and thirdly, that a rigid system of retrenchment and reform, was rendered imperative by the deplorable state of the public finances.

Mr. Evans of Maine, had offered an amendment, amongst other things, declaring that one great want of the country, was a currency of uniform value; and censuring the states which had repudiated their indebtedness, as a principal cause of our want of credit, and declaring that those debts were binding, and could not be annulled, and that it was the duty of the people of those states to take measures to pay them. Mr. Dayton proposed instead of this amendment, a resolution, declaring that the distrust and obloquy cast upon the Federal Government, by reason of the failure of those states to

pay, was an unjust and unfounded imputation upon its credit and good faith; that while the government deplores the misguided policy of those States, it disclaims all liability, legally, or morally, for such delinquency, and in vindication of its own unblemished faith and honor, it appeals with confidence to its past history. His speech in support of this resolution, rings out with a clear sound of unfaltering loyalty to, and faith in, our government and country. He hurls back upon great Britain, whose bankers and scholars had joined in a tirade of abuse against us and our institutions, the charge of faithlessness to public obligations, and shows how the national debt of England, of which ours would not pay the discount for thirty days, originated in fraud and oppression against the public creditors. He takes the President to task for publishing our shame, by sending to Congress a public message, detailing his unsuccessful efforts to borrow money abroad, and speaks with scorn of his proposition to offer a mortgage on the public lands.

"Sir,', said he, "I am a citizen of the Federal Government of the United States; I am a citizen of the State of New Jersey; neither hath ever dishonored their faith by a broken promise. Aside from other objections to this plan, my feelings revolt at it as an indignity, as an unmerited imputation. An American President recommends to an American Congress, that, in addition to our national faith, we give collateral security by mortgage; that we submit to terms in the markets of the world, not asked of other nations; terms implying a distrust of our integrity, and our honor!" * * The money could have been procured, and has been procured (at home) without any such extraordinary means. But if it could not have been, taxation was open to us; better that, than negotiating on terms implying a distrust of our integrity." And, again; "Sir, there is no Government in the world, that ought to stand higher than that of these United States. There has none—no not one, acted with a faith more pure. And how is it with the other sovereignties? Not one can be named which is not staggering under its load." Then, after stating the amounts of debts of the principal European powers, he adds: "With these budgets of iniquity upon their backs, (the fruits of rapine and war), they stagger along like the old sinner of Bunyan's Allegory, reading homilies to us, doubting whether we can follow! *We*, in lusty youth, carrying the weight of a thistle down, and with an inheritance stretching from sea to sea! There is a cool assurance in this thing, to which the history of the world has no parallel."

So he always talked. Such was the stand he always took. Confidence in his country, love for it, zeal for its faith and honor, pride in its institutions, scorn for its secret enemies, those who endeavored to stab its reputation at home, and to hold it up to shame

and contempt abroad—undying faith in the greatness, the glory and the perpetuity of our nationality,—and at the same time always a Jerseyman, such shall we find WILLIAM L. DAYTON, not only in the Senate, but to the end of his life.

In 1843, our State politics experienced a change. The democrats carried the legislature and elected the Hon. Daniel Haines, governor. The legislature instructed Mr. Dayton to vote for the bill to remit Gen'l Jackson's fine, with interest. This was in December, 1843. He took occasion, on presenting the resolutions to the Senate, to give his views on the subject of legislative instructions. Of course he took the conservative ground which was always maintained by the party to which he belonged. In a very respectful and proper manner, he laid down what he considered the true rule. He said:

"But I am unwilling, at this stage of the question, to announce what will be my final vote upon the bill I am here for advisement, and so long as a single hour remains,—until discussion and deliberation are both exhausted, I hold myself "open to conviction." Should I finally *doubt*, the instructions of a New Jersey legislature would have with me a controlling power. But, sir, while I thus, with unaffected sincerity, acknowledge the high estimate I place upon the opinions of that body, let me not be misunderstood. I utterly deny the binding force of these instructions. I will not shield myself from a just responsibility by subterfuge or evasion. I repeat that I utterly deny the *binding* force of these instructions. This chamber was not intended as an automaton chess-board, nor we as senseless pieces with which others play a game. If the legislature of New Jersey go further than to advise me of their wishes, —to communicate what they believe to be the sentiments of our common constituents, they usurp a power which does not belong to them. They were elected for no such purpose. I hold my place on this floor, subject to no limitation save that affixed by the constitution; and responsible to no power save that of the people. Between them and me, I acknowledge no such "go-between." Firmly and yet respectfully, I shall repel every attempt to encroach, in this or any other form, upon my constitutional rights.

"Sir, I was not elected to this body for any specific object, but for general legislative purposes. So soon as I assumed my seat, not New Jersey alone, but the entire Union was entitled to the benefit of my judgmeut, of however little value it might be.

"Although New Jersey may be satisfied, as far as *it* is concerned, to have its legislature think for me, will Massachusetts, will Georgia, will Kentucky consent? As a Senator of the United States, I have relations with them. If I substitute the judgment of a New Jersey legislature in place of my own, what becomes of those relations? how are those duties satisfied?

"But, as a member of this body, the initiatory step on my part, was an oath to support the constitution of these United States. Has this doctrine of *instruc-*

tions its origin there? Far from it. The object of that provision which gives to the office its duration, was expressly intended to provide against those constant changes which this doctrine must bring about. This was intended as the conservative department of government, a something above and beyond the reach of popular impulse, or sudden change; and yet this doctrine assumes that a legislative body, elected annually, may direct us in our official action here, or drive us from our seats. If this be so, the constitutional provision is nullified. But it is not so; the very act of resigning sooner than violate one's conscience by obeying, admits the whole argument. The reasoning by which this doctrine is attempted to be enforced, if I understand it, is, that senators being appointed by the legislature, represent the State—the one as the principal, the other as the agent. That wherever the principal, through its legislature, chooses to instruct, it takes the responsibility, and the agent is bound to obey. And yet these gentlemen who profess to act upon this doctrine, uniformly resign when instructed to vote in conflict with their own judgment. And yet the vote to be given is rarely, if ever, a question of moral right or wrong; it is a question of judgment only—a mere matter of political expediency. And yet upon such a question, and where the principal assumes, as they say, all the responsibility, the advocates of the doctrine resign sooner than violate their consciences by obedience. Sir, the act of resigning is an admission that, in despite of instructions the responsibility is yet with them. If the legislature have the right to direct us in our duties here, how on such a question, involving no moral principal, can it affect the conscience or the honor to obey? This is one of those difficulties growing out of this doctrine, and the practice under it, to which I apprehend there is no satisfactory solution.

"My views upon this subject are fortunately not the growth of my present position; they were expressed long ago, and under other circumstances. In the year 1838, I had the honor to be a member of the legislative council of New Jersey. Gen'l Wall, a highly respectable citizen of that State, then held a seat in this body, politically opposed, as he was, to a large majority of both branches of our legislature. His friends had, a few years preceding, been liberal in their instructions to Mr. Frelinghuysen and the late Mr. Southard; and their want of obedience had been denounced with the utmost bitterness. But the face of things had now changed; their weapon was in our own hands. It was supposed by some that it was our duty to strike; and that Gen'l Wall must obey or leave his seat. I then assumed the position for which I contend now—the right to express our opinions, our sense of what we believed to be the views of our constituents, but that the same was not, and could not, constitutionally, be *binding* upon a member of this body. In this modified form, resolutions were passed. They were utterly disregarded by Gen'l Wall. He said they were not *instructions*. Nor were they in the sense that he understood the word. But if we were the principal, and he the agent; if we were the master, and he the servant,—of what importance was the form of expression? The servant who knows the will of his master, is as much bound to conform thereto as though he had his command. Words are but the shell; it is the sense which constitutes the kernel."

In the course of this session, the question of taking possession of

Oregon was considerably discussed. By a convention entered into between Great Britain and the United States, in 1818, and renewed in 1827, the two nations held a joint occupancy of the Country, subject to be discontinued on a year's notice. Some attempts had been made to effect a settlement of the conflicting claims of the parties, but without success. As early as 1815, our ambassadors had offered to divide the Country by the 49th parallel, although our claim extended to the Russian possessions, in latitude, 54° 40′. This offer had been rejected by the English Commissioners. Immediately after the conclusion of the Ashburton Treaty; a further attempt was made on our part to get a settlement of the question. In 1843 the offer of 1815, was renewed by our minister in London, and again declined. Meantime the Western States began to get restive on the subject, and to insist on a more satisfactory disposition of the affair; and in January, 1844, Mr. Semple of Illinois, offered a resolution requesting the President to give the requisite notice for terminating the joint occupation of the territory. Bills were also introduced to establish a line of military posts from the Mississippi to Oregon Territory, for the organization of a territorial government, and for guaranteeing to settlers a section of land, etc.

Mr. Dayton opposed the resolution us uncalled for, improper and calculated to involve us in a war with Great Britain, on a question eminently proper for negotiation or arbitration. Having discussed the titles of the two countries, and shown that whilst our title was undoubtedly the strongest, there was nevertheless fair ground for difference of opinion on the subject; he expressed these very statesmanlike views.

"But my position is, that, upon principals of national law, the question of Oregon is the very question of all others, properly the subject of negotiation, and even of arbitration, in preference to war. By reference to those writers who treat upon this subject, it will be seen that a distinction is made between such rights as are denominated essential rights; or, in other words. rights upou the maintenance of which the safety and existence of a nation depends, and such rights of inferior importance as conceru merely its interests. The latter are always the proper subjects of negotiation and arbitration; the former never. (Vatel, 279.) And the reason of the distinction is obvious. Now, it can scarcely be pretended that either the safety or existence of this nation, depends upon its possessing all or only a part of Oregon. It is therefore one of those questions upon which, should we re-

fuse negotiation, and assume an attitude of positive defiance, the sentiment of the civilized world would be against us. The power of Great Britain as I view the question, is wholly aside the case. There is something more to be dreaded than the physical power of all the nations of the earth combined—it is the moral power of public sentiment. The one could but waste our substance and destroy our people; the other can take away our good name."

Mr. Dayton further contended that the Country, in itself, aside from its being necessary to our Pacific Commerce, was, by all accounts, a country hardly worth a contest. His observations on this point are, at the present day, curious enough, and illustrate the wonderful progress of events within the last twenty years. After adverting to the Indian difficulty—showing we would be separated from Oregon, by three or four hundred thousand fierce and hostile savages, to whom we owed some duties of justice and humanity—he dilated on the undesirableness for a long time to come, of having Oregon so far filled with settlers, as to take the relation either of a State, or an organized territory.

"But. Mr. President," said he, "aside from all questions of this kind the principal one remains. How will the speedy settlement of Oregon effect us? In my judgment, it must be injuriously. The interests of the nation, the dictates of a sound, far-seeing policy, are against it. To decide this question, it is necessary to fix what is to be the real character of this distant settlement. Is Oregon to be first a Territory, and then one of the States of the Union? Or must it ever remain a distinct government, colonial in its character? The friends of the measure say the former, of course, and they even now have the bill on our tables, organizing a vast territorial government. Now, sir, the history of the past may justify almost any extravagant expectation for the future, but the admission of Oregon as a State of this Union seems to me as undesirable on the one hand, as it is improbable on the other. Undesirable because, by the aid of the representative principle, we have already spread ourselves to a vast, and almost unwieldy extent. I have no faith in the unlimited extension of this government by the aid of that principle. The arch has just so much strength as its centre, and no more. Every man must see that the inevitable consequence of increasing the number of States, (more especially if distant, and with peculiar interests), must increase the number and amount of conflicting interests. Upon the admission of the very state which the Senator represents, this country was shaken as by an earthquake. We have already conflicting interests, more than enough; and God forbid that the time shall ever come, when a State on the banks of the Pacific, with its interests and tendencies of trade all looking towards the Asiatic nations of the East, shall add its jarring claims to our already distracted and overburdened confederacy.

"But it is not only, in my judgment, undesirable, but improbable. Distance

and the character of the intervening country, are natural obstacles, forbidding the idea. By water the distance around Cape Horn is said to be about 18,000 miles. By land, the distance by the only line of travel is about 5,000 miles from this spot to Fort Vancouver, in the valley of the Wallamatte! We are much nearer, then, to the remote nations of Europe than to Oregon. And when considered in reference to the facilities of communication, Europe is our next door neighbor. And this state of things must continue, unless some new agent of intercommunication shall cast up. The power of steam has been suggested. Talk of steam communication—a railroad to the mouth of the Columbia? Why, look at the cost and bankrupt condition of railroads proceeding almost from your Capital, traversing your great thoroughfares. A railroad across 2,500 miles of prairie, of desert, and of mountains! The smoke of an engine through those terrible fissures of that great rocky ledge, where the smoke of a volcano only has rolled before! Who is to make this vast internal, or rather external, improvement? The State of Oregon, or the United States? Where is to come the power? Who supply the means? "The mines of Mexico and Peru disemboweled would scarcely pay a penny in the pound of the cost." Nothing short of the lamp of Aladdin will suffice for such an expenditure. The extravagance of the suggestion seems to me to outrun what we know of modern visionary scheming. The South sea bubble, the Dutchman's speculation in tulip roots, our own in town lots and multicaulis, are all common place plodding in comparison. But the suggestion seems to me properly part and parcel of this great inflated whole. Viewing this subject practically, we must see that no such communication can ever be made. "It wont pay!" At least 700 or 800 miles of this travel must ever remain as it now is, rugged mountain and barren desert—a great American Sahara, and all the volcanic piles beyond. I do not mean to say that they may not be passed; but I do say they are obstacles which, in my opinion, forbid that convenient accessibility necessary to the intercourse of all that become States of this Union."

Neither Mr. Dayton nor anyone else then foresaw, that the mines of Mexico and Peru—or at at least, mines equal to them, would in reality within five years from the time of that speaking be discovered near Oregon, and disemboweled from the earth by throngs of many thousands, flocking thither from the old states; and that the railroad and the telegraph would become so developed as to annihilate time and space, and connect the States on the Pacific with those of the Mississippi and the East, by ties as strong as those which ever bound the old thirteen together.

It only remains to say, that notwithstanding all the gasconading which was indulged in, for political effect, about having the whole of Oregon up to latitude, 54° 40′ or, "a fight," no notice was given to Great Britain; but Mr. Polk and his secretary Mr. Buchanan, quietly continued the negotiations which Mr. Tyler had commenced,

until they resulted in the acceptance of the line of 49° North latitude as our Northern limit, by the Treaty of June 15th, 1846, thus settling this boundary question forever.

THE TARIFF.

In this session the Tariff, so long a most fruitful source of discussion and disagreement in our national councils, came on the tapis again. The compromise act of 1833 had prescribed a gradual reduction of all duties to 20 per cent. on the value of the article imported, no matter what those articles were. This minimum rate was to be attained on the 1st of July, 1842; and after that, all duties were to be collected in cash, and no credits given therefor; and were to be laid for the purpose of raising such revenue as might be necessary to an economical administration of the Government, and were to be assessed on the value of the goods at the port of entry. Such was the Compromise Act—based on the principles of a blind free trade—paying no regard to the character of the articles, or whether they were articles of luxury or necessity, or whether produceable at home or not. This compromise was come to for the purpose of satisfying the South. It was one of those grand efforts of the great compromiser, Clay, which will be better understood and accurately appreciated when men's heads become more clear than they are yet, from the influence of personal and political attachments and from the fears of Southern threats of disunion.

Long before July 1st, 1842, arrived, it became very clear that the compromise act was neither adequate to raise the required revenue of the country, nor suited to the exigencies of its industry or business. And, by its terms, after that period such duties were to be imposed as should at least meet the former requirement.

Accordingly, in August, 1842, just after Mr. Dayton had entered the Senate, Congress had passed a new Tariff Act, graduating the duties upon different articles with some regard to the manufacturing interests of the country, and making them *specific* or *ad valorem* as seemed best calculated to effect the objects in view.

Many of the duties thus imposed, of course exceeded 20 per cent. ad valorem. Various efforts were made from time to time to break down this tariff, and bring the rates back to the standard of the compro

mise act; but they were unsuccessful as long as the Whig party continued paramount in the Senate, which it did during the entire administration of Mr. Tyler. After the election of Mr. Polk, the tariff of 1842 was superseded by that of 1846, which was far more acceptable to the advocates of free trade.

Mr. Dayton always warmly sided with his party in this question of the Tariff, and did all in his power to preserve that which had been lately established. In January, 1844, Mr. McDuffie, of South Carolina, moved to reduce the duties imposed by the act of 1842 to the compromise standard.

The subject having been viewed and discussed from almost every standpoint by the ablest debaters of the country, it seemed hardly probable that any new interest could be given to it. But Mr. Dayton, in April of this year, in a very able and original speech which he made against Mr. McDuffie's resolution, presented it in its relations to agriculture, contending, contrary to the general assumption, that an efficient protective tariff was a benefit to the agricultural as well as to the other great interests of the country. The old argument against the tariff had always been that it was calculated to enrich the manufacturer at the expense of the farmer. Mr. Dayton commenced his speech as follows:

"The tariff act of 1842 has realized, more than realized, the expectations of its friends. As a means of revenue, it has filled the empty coffers of your country. As a means of protection to labor, its power has been almost miraculous; it has raised domestic industry from the dead. A thousand branches of industry have sprung up, as it were, in a night.

"It is my purpose to relieve this act, as far as I can, of the charge of partiality in its benefits and operations. It has been charged here and elsewhere that the tariff act of 1842, as well as the system of which it is a part, is calculated to plunder the agriculturist and enrich the manufacturer; or in the emphatic words of the Senator from New Hampshire (Mr. Woodbury), it is a system for skinning the farmer.

"It is of that interest and to that interest I mean principally to speak. It is to the farmers of the country that this system has been most misrepresented, and by them I desire that it shall be understood. If it shall be found to be a system of robbery, let them deal with those who sustain it accordingly. I think it may be demonstrated that the agriculturists are interested in the perpetuity of this system, to an extent at least equal to any other class of the community, and that from the very beginning they themselves have been the recipients of its bounty and the objects of its care."

He made a masterly examination of the subject thus propounded;

after giving a history of the various tariffs, and showing that many articles of agricultural production were directly protected by the act of 1842, he proceeded to elaborate his principal proposition, that the home market afforded to our farmers by the establishment of manufactures, far outweighs all counter considerations. The value of productions consists not in amount only, but in convenience of market. He also showed from the history and experience of other nations that the condition of the agriculturist has always been most prosperous when the manufacturing interest was fostered. The general welfare of the country superinduced by an enlarged system of manufactures, was urged with great force. On this point he said:

"But the agriculturists of our country have an interest in the protection of manufactures of a more enlarged character. If any interest may specially be called the country's, it is theirs. They have a deep interest in this question, as a question of political economy—of material wealth. When they are invoked to abandon manufactures, and buy and sell abroad, they will count the cost.

"1. The country is to sink the immense capital now invested in machinery, buildings, &c.

"2. The country is to sink the skill of its citizens—something of vast importance, when you recollect the value of that skill as compared with common labor, in the production of national wealth.

"3. The country is to sink all that power for producing national wealth which lies in machinery and its propelling agents, water, wind, steam, &c.—a power equal in this country to many millions of men. All these must be abandoned to the foreign manufacturer, while we return to the simple elementary agents of production, How much wealth, as a nation, could we thus produce, compared with what we now produce? Have a people ever existed who have become wealthy in the production of raw material alone? Would not that country necessarily become poor which should so engage itself, and exchange the productions of its labor for the labor of another country engaged in manufactures? It would have to give the labor of at least five men at home in exchange for the more valuable labor of one man engaged in manufactures and aided by machinery abroad.

"In every aspect of this question, the farmers of this country have personally and politically the deepest interest in the perpetuity of this system of protection to American industry, and the development of American resources."

Closely connected with these considerations are those that relate to the moral and intellectual advancement of a people. He said:

"But, sir, this question connects itself, too, with the intelligence and civilization of the country. A high state of mechanical or manufacturing improvement has ever marked a people of higher intelligence than those engaged in producing raw material. Apart from England, already referred to, and looking

to the Continent, we cannot forget that those beams of light which first fringed with silver the edge of the dark ages, arose from the cities of Germany, the early home of mechanical and manufacturing industry. It was from Ghent the woolen manufacture came to England. Nay, sir, we might almost say that the universities of Germany are but higher emanations of the same spirit. Geneva, with its little population of twenty-five thousand, has a fame which knows no limit. It was among her artizans that the lights of the Reformation found an asylum and a home. Yet her fame rests even more upon her watchmakers than her universities. They have grown together, each giving warmth and support to the other, without which perhaps both had long since been lifeless—cold as the waters of their own Leman. I might run round the world and upon every spot where mechanical or manufacturing skill has flourished, show a people marked for intelligence and civilization. This, sir, is a matter for consideration when patriotism is invoked to shut up the manufactory and the workshop."

I do not know that I have ever seen the subject better or more forcibly discussed upon its true grounds, than Mr. Dayton discussed it in this speech. It can hardly be doubted that the moral as well as material interest of every great country, its independence and dignity, as well as the happiness of its people, require that it should be strengthened and embellished by all the useful and all the liberal arts; and the protection and encouragement of those arts is one of the first duties of civil government. Though it should be true (which is very doubtful), that the fostering and development of manufactures bore hardly on particular interests and particular districts, yet the general good to the whole nation which would be thereby effected would more than counterbalance, even to these particular interests or districts, the disadvantages they suffered.

The compromise to which we have referred, was intended to defer to a particular interest and a particular district of the country, at the expense of the industrial independence of the whole country. No such compromise can ever be permanently successful in accomplishing its objects.

ANNEXATION OF TEXAS.

Soon came up the absorbing question relating to the annexation of Texas—the first of that long series of measures and events which ended in the immense enlargement of our territories, and in the almost interminable discussions and disputes respecting the extension of slavery; and finally culminated, in our times, in the late gigantic rebellion.

Mr. Dayton, like many other of our most sagacious statesmen, suspected from the first the motives of the projectors of Texan annexation, saw the coming danger afar off, and uniformly opposed the project.

The secret history of this project is given by Mr. Benton in his Thirty Years' View. His close connection with the events of that period, and his intimate acquaintance with all the principal actors, gave him eminent advantages for such an exposition. He traces the whole plot, most unerringly, to Mr. Calhoun, who set it on foot for the purpose, primarily, of effecting his own elevation to the Presidency, and strengthening the slave-holding interest in the Union; and secondarily, if not successful, of dissolving the Union, and forming, together with Texas, a powerful Southern Confederacy. The repeal of the tariff of 1842, and the annexation of Texas, or disunion, were the burden of speeches and toasts at political meetings and fourth of July dinners in South Carolina and elsewhere. The subject was started and soon got into politics. Others availed themselves of it, as well as Mr. Calhoun, as a stalking horse to ride into power.

Mr. Tyler had recurred to the subject of Texas, and the desirableness of putting an end to the border warfare kept up between her and Mexico, in his annual message of 1843. His language was peculiar: "Considering that Texas is separated from the United States by a mere geographical line—that her territory, in the opinion of many, down to a late period formed a portion of the territory of the United States—that it is homogenous in its population and pursuits with the adjoining States, and makes contributions to the commerce of the world in the same articles with them—and that most of her inhabitants have been citizens of the United States, speak the same language, and live under similar institutions with ourselves—this government is bound by every consideration of interest, as well as of sympathy, to see that she shall be left free to act, especially in regard to her domestic affairs, unawed by force, and unrestrained by the policy or views of other countries."

Mr. Webster left the office of Secretary of State in May, 1843. Mr. Upshur, a friend of Mr. Calhoun and of the Texan project, was appointed his successor, and after his death by the unfortunate acci-

dent of February, 1844, Mr. Calhoun himself took the place best fitted to carry out his bold designs. On the 12th of April he had concluded a treaty of annexation, with the Texan Commissioners, which was presented to the Senate on the 22d. For the purpose of rushing the measure through, the idea had been started that England was negotiating for Texas, and stipulating for the abolition of slavery therein. The treaty was rejected by a vote taken on the 8th of June. One great objection to annexation was that it would, if done at that time, necessarily involve a war with Mexico. The subject entered largely into the discussions of the ensuing political campaign. Mr. Calhoun had been disappointed in getting, by means of the spirit which he had thus raised, the nomination for the Presidency. But he had prevented the nomination of Mr. Van Buren, and Mr. Polk became the candidate of the Democratic party. Clay and Frelinghuysen bore the colors of the opposite side.

In an address to his constituents at Newark in June, 1844, Mr. Dayton had warned them that the object of seeking the annexation of Texas was to break down the tariff and strengthen the slave power by the creation of four new slave states. "The constitutional compromise," said he, "by which this feature [of allowing three-fifths of all slaves in the basis of representation] was engrafted into our political system was solemnly agreed to, and we will stand by it as long as the Government shall last But it is asking too much to bring upon us an entire new country of slaves and slave states upon the same terms. We will stand by the compromise as it is; to extend it would be not to extend Liberty but Slavery."

Mr. Tyler in his next annual message, Dec 1844, strongly advocated annexation. He said that Mexico would have no right to complain, as Texas was actually independent, and we had acknowledged her independence; and therefore she had a right to do with herself as she chose.

Early in the session Mr. McDuffie introduced a joint resolution for effecting annexation on the basis of the rejected treaty. Other resolutions and one bill were offered; and finally a joint resolution for direct annexation was offered, which was eventually passed, with certain amendments. One of these was offered by Mr. Douglass to the effect that in all that part of the territory north of 36° 30′,

slavery or involuntary servitude except for crime, should be prohibited. The progress of these resolutions excited much debate. One historical writer, speaking of these debates in the Senate, says: "Few debates have ever occurred in that body in which has been engaged a stronger array of talent, or which have been more highly characterized by legislative decorum, or the maintenance of Senatorial dignity. It was one of the most important questions—perhaps the most important—ever decided by an American legislature—the incorporation of an independent foreign nation into our own by a joint resolution—an act which," I still quote, "was regarded universally as an exercise of an extremely doubtful power, and by many as unauthorized by the Constitution upon any just principle of interpretation. Although the question had excited strong party feeling, the reported speeches evince entire freedom from acrimony and invective."

Mr. Dayton delivered his views on the subject on the 24th of February. He took the ground that the proceeding was unconstitutional, that the legislative power was incompetent to effect the proposed object: that the power to admit "new states" into the union, conferred upon Congress by the Constitution related only to such new states as should be formed out of territory already belonging to the Union, and did not refer to foreign countries; that all negotiations with foreign powers belonged to the President and Senate, and required the consent of two-thirds of the latter body, in which all the states were represented: that this was a feature of the Constitution which the small states had always valued, as one of their chief securities against the overwhelming power of the large States: that it was an invasion of their rights in this respect, and an enormity in itself, to force new partners upon them with equal representation in the Senate and greater in the House, by a simple act or resolution of Congress: that it created an additional slave state, with the privilege of creating four more slave States; and that the pretence of carrying out the Missouri Compromise, by declaring that slavery should be prohibited in all that part of the territory north of 36° 30′, was an insult to the free states. No part of the territory extended north of that line; and the proviso had the effect of confirming slavery in all the territory south of it—which was a clear infraction

of the Missouri Compromise. That compromise had reference to the territory then owned by the United States, and not to new territories. This project would introduce a vast new country as slave territory, contrary to the spirit of the pledges involved in the Missouri Compromise. He predicted that this would not be the last attempt of the slave power to extend its own area, but that, when Texas was filled up, and new free states in the West should ask for admission, it would demand still further extension, and not rest until it had reached the Pacific.

The conclusion of this speech is worthy of being repeated here:

"Mr. President: The integrity of the States of this Union must be preserved at any price short of dishonor and impositions on its parts too grievous to be borne. We ask our Southern friends not to press us too far. We feel that while the South has always clamored most, she has had least cause, that the government has been almost exclusively in her hands from the beginning. The present acquisition we deprecate, first, and principally, because it is a violation of the Constitution; and next, because we feel that it can bring with it no commensurate good to counterbalance its evils. It is hanging an immense State on the very outermost end of the confederacy, and it gives it the advantage of leverage against the center. If it cannot, on trial, upheave it, it may at least break the beam, and carry a large fragment away with it. Sir, we want conciliation; and we want forbearance at the hands of the South. Of country, God knows we have "enough and to spare!" Filled from its verge to its centre with our free citizens and our free institutions, where in the compass of light could you find a nation reflecting more of greatness—more of goodness!"

Before the vote on the resolution was taken, Mr. Walker, of Mississippi, in order to secure that of Mr. Benton, offered an amendment authorizing the President, in his discretion, to open negotiations for a treaty with Texas instead of presenting the resolutions themselves as a direct proposition for annexation.

The following account of the final proceedings was given at the time of their occurrence:

"The most intense anxiety has pervaded the public mind for the last three weeks, and up to the time at which we go to press with this number, every moment adds fresh incident to the topic. For two weeks the United States Senate chamber has been the focus. Upon that body the GREAT QUESTION devolved. Daily every avenue to the chamber was crammed by persons from all parts of the Union. Foreign ministers, agents, and officers of all departments of the government were there, citizens and strangers, male and female. All seemed impressed with the gravity and importance of the question. The de-

bate, for talent and eloquence, as a whole, has seldom had its equal. certainly has never been surpassed in either House of Congress. The uncertainity of the result—how the vote would be, up to the last moment, served to call out on each side the utmost strength of intellect and ardor. There is every reason to believe that during the struggle, the majority wavered first to the one side and then to the other more than once. * * * *

"After taking a recess, the Senate met at 6 o'clock to determine the question. Mr. Foster proposed an amendment to that of Mr. Walker, which was rejected. Mr. Archer then proposed an amendment, *directing* the President to open negotiations with Texas for its annexation to the Union. This was lost by a tie vote, 26 to 26. Mr. Walker's amendment then came up and was adopted, ayes, 27, nays, 25, every member being present. The resolution, as amended, was then ordered to a third reading by the same vote. The bill was then read a third time amidst a profound silence, and without the yeas and nays being called, and passed."

The annexation was consummated on the 4th of July, 1845, by a convention of the people of Texas acceding to the terms of the Joint Resolution.

THE MEXICAN WAR.

The acquisition of Texas involved us in the Mexican War. A force was immediately sent to the west of the Nueces, to prevent the Mexicans from invading our territory. Gen'l Taylor arrived at Point Isabel, on the banks of the Rio Grande, on the 24th of March, 1846. A fleet of transports reached the same place half an hour later. The army of occupation consisted of 3,500 men. About a month afterwards, hostilities commenced. On the 11th of May, President Polk sent a message to Congress, announcing a state of war, which, he said, had been commenced on the part of Mexico, whose government "after a long-continued series of menaces, had at last invaded our territory, and shed the blood of our fellow citizens on our own soil." He invoked the prompt action of Congress, to recognize the existence of the war, and to raise the means of prosecuting it. A bill for raising the necessary men and $10,000,000, of money was immediately reported—and passed with great unanimity by both houses. It would have been passed unanimously, had not the preamble re-echoed the President's fiction, that the war had been begun by Mexico. Senators Mangum, J. M. Clayton and Dayton, whilst voting for the bill, on the principal that when our country is in a fight, we must stand by her, right or wrong, had their protests against the preamble entered on the journal.

Mr. Dayton was consistent, throughout, in his comdemnation of the objects and purposes of the war. He invariably voted the necessary measures to sustain the executive in its prosecution, but always under protest. His views were quite fully developed in a speech delivered on the bill, called the tenth regiment bill, in January, 1847.

WILMOT PROVISO.

On the first of March, of that year, he contended very ably and earnestly for the application of what is commonly called, the *Wilmot Proviso*, to the acquisition of any new territory from Mexico, at the termination of hostilities; not being willing to encourage any further the system of slavery extension which had been so signally developed by the annexation of Texas.

This question came up for discussion in the following manner. On the 4th of August, 1846, the President had sent to the Senate a confidential message, to the effect that he had resolved on making proposals for a negotiation with Mexico—having already sent a letter, to that country with that purpose; and asking of Congress an appropriation of money to aid him in negotiating a peace. The object of the money was declared to be, to pay Mexico a fair equivalent for any concessions she might make, in adjusting a permanent boundary between the two countries—that is to say—to acquire additional territory from Mexico. A similar message was sent to the House of Representatives on the 8th of August, and a bill was immediately introduced appropriating $2,000,000, to enable the President to conclude a treaty of peace with Mexico. To this bill, before its passage, David Wilmot of Pennsylvania, offered the following amendment, which acquired so much notoriety, as the famous "Wilmot Proviso."

"*Provided*, That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted."

The amendment was adopted, and the bill passed. It failed, however, to receive the sanction of the Senate, and Congress adjourned without making the appropriation asked for.

There was a great difference of opinion as to the expediency of pressing the Wilmot Proviso. Mr. Benton and others, including many conservative whigs, contended that it was nugatory, inasmuch as slavery had been absolutely abolished in Mexico, and therefore did not and could not exist in California or New Mexico, the territories which it was supposed might be procured in the negotiations. Others, on the other hand, pointed to Texas as an illustration of the futility of this argument, and as a proof that slavery would force itself into any new territories where it could be profitably used unless expressly prohibited. Others, again, among whom where Mr. Douglass of Illinois, proposed to extend the Missouri compromise line to the Pacific, and thus end the controversy by another. compromise.

Mr. Calhoun, and the extreme Southern party, seized upon it as a new cause of clamor against the North, denouncing it as the greatest possible outrage and injury to the slave states. At the same time, Mr. Calhoun wrote a confidential letter to a member of the Alabama legislature, hugging this proviso to his bosom, Mr. Benton says, as a fortunate event as a a means of "forcing the issue," (namely of a separation) between the North and the South, and deprecating any adjustment, compromise or even defeat of it, as a misfortune to the South.

Considering the ill blood that it was made the occasion of engendering, it may be deemed to have been a very questionable measure. If, however, the Southern leaders were determined to "force the issue" at one time or the other—as really seems to have been the case—perhaps the pressing of this Proviso was one link in that chain of events, which an over ruling Providence designed to terminate in the overthrow of slavery, and the crushing out of the dogma of secession. For my own part, I always deemed it an inexpedient insistment on the part of the North.

In the following session, a bill was introduced into the house appropriating three millions of dollars, for the same purpose as that contemplated by the two-million bill of the previous session, and

this Wilmot Proviso was moved as an amendment by Mr. Hamlin of Ohio, and adopted. But the Senate instead of waiting for the House bill, passed one of its own, without the Proviso, which the house finally agreed to on the last day of that Congress, March 3d, 1847. Whilst the matter was under discussion in the Senate, on the 1st of March, Mr. Dayton made the speech, in favor of the Proviso to which I have alluded. The New Jersey Legislature had passed a resolution requesting its Senators and Representatives to support the proviso, and Mr. Dayton very cheerfully complied with this request.

He contended, first, that Congress had the power to impose such a restriction, that is, to prohibit slavery in its territories; and, secondly, that it was its duty to do so now. His argument on the first point has always seemed to me unanswerable. Congress is the only legislature, the only fountain of law, for the federal territories. If Congress, or such territorial legislature as it may delegate for the purpose, cannot impose laws upon such territories, there is no power, body, or jurisdiction that can—and that alternative is an absurdity, for all territory must be subject to some government or other. The United States is a government, a sovereign power. If it possesses territories, no matter how acquired, it must have the usual governmental prerogative of imposing laws upon them. The constitution expressly says that Congress shall have power to pass all laws necessary to carry into execution the powers granted. It also expresely declares that Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States.

He then examined and demolished the proposition contained in the resolutions offered by Mr. Calhoun, that any action of Congress which should prevent the citizens of a Southern State from emigrating to a new territory or state, with their slave property, was an unconstitutional discrimination against such Southern State. This proposition he showed by various illustrations, to be an absurdity. In New Jersey he said a dollar bill passes for money, in Missouri it does not. Congress had adopted the Missouri plan in the territories, prohibiting the use of dollar bills in making payment for any of the public lands. Was this an unconstitutional discrimination against

New Jersey or her citizens? If Congress held the law making power over the territories, it had a right to adopt just such laws for their government as it might deem most for their benefit and prosperity, without inquiring what state laws they coincided with, or what they differed from.

So with regard to conditions imposed by Congress upon New States on their admission into the Union, he showed that they are not only valid in principle, but it has even been the practice of Congress to impose them. Congress is not *bound* to admit any State when she applies for admission, and if not, then she may impose such conditions of admission as do not conflict with the constitution. If, for instance, Congress should impose the condition, that the New State should never send any Senators to Congress, such a condition would be repugnant to the constitution and would be void. But it has always been the practice of Congress, to impose certain conditions. One of the last conditions so imposed, was in the case of Minnesota, to wit: that that state should not impose a tax on the public lands for five years after their sale. Another condition usually imposed is that the lands of non-residents shall never be taxed higher than those of residents. These are merely examples. They have always been deemed valid.

As to the expediency of exercising the power in the case under discussion, Mr. Dayton was clear that it should be. "If" said he, "we would avoid "future and blacker discord, now, now is the time, before any personal interests are involved, before any legal rights vested, while all is yet in the unpledged, untold future. Sir, if this declaration be once made, it will control the conduct of Statesmen, —it will regulate the votes of Senators. If the declaration be now made, before God, I believe it will, in its results, end the war. If nothing but free territory is to be acquired, depend upon it, a Southern President will scarcely hold it worth the millions of money and the blood it will cost to obtain it."

But the provision was not adopted. The Three-million bill was passed without it. California and New Mexico were added to our domain;—and thereupon arose other questions respecting the organization, government and status, as to slavery of these new territories which shook the country to its centre. Mr. Calhoun and his follow-

ers declared that Congress could not prohibit, could not legislate about slavery in the territories; and that any such legislation would be good cause of disunion; the growing anti-slavery party declared the exact contrary, and that Congress ought so to legislate; and a large middle party was in favor of some compromise of the matter that should end the dispute, and restore quiet to the country.

When the treaty with Mexico was concluded in February, 1848, Mr. Dayton advocated its ratification, being the first whig who counseled this course; and in a speech made soon after, (April 11th) he justified himself on the ground that the administration was evidently determined to have some territory before closing the War, and the real question probably was, whether we were to have the territory stipulated for in this treaty, or more: in addition to this, the territory stipulated for, was so situated and of such a character, as practically to prepreclude "that wretched question" as he calls it, of the Wilmot Proviso. "This line of 32° North latitude, says he, "gives us a country which, I apprehend, can never become permanently a slave country." * * "There is no slavery now in the territory acquired by the treaty." "The only remaining question is, can that country ever become permanently a slave country. I hold that it cannot. Thus then, the adoption of this line practically avoids this great evil. I am opposed to all extension of slavery. I am opposed to all extention of this principle of representation. But while entertaining these sentiments, I will never turn fanatic, and set the world on fire on account of an abstraction, a mere theory, unattended by practical results. Representing a constituency with nothing at all of political abolition about them, I rejoice in the termination of this war, in a manner which avoids this distracting and dangerous question."

In this fond hope, alas, the Senator was doomed to be sadly mistaken. The question continued to be fomented as a basis of acrimonious discussion and contention between the different sections of the Union.

These remarks, show however, that although Mr. Dayton was invariably opposed to the extension of slavery, he reflected the conservative feelings of his native State, in desiring to avoid all occasions of fanning the flames of controversy on the subject.

It is not a little singular that this speech, which was intended to bring the Whig side of the House to the support of the treaty and of the supplemental measures that were necessary to execute it, was mainly devoted to the refutation of a speech delivered on the 23d of March by Mr. Webster against the treaty and all measures auxiliary to it. The papers of the day said that Mr. Webster was very much excited and in earnest on that occasion, and produced one of his grandest intellectual and rhetorical efforts. But Mr. Dayton did certainly submit the logic of Mr. W. to a most searching analysis, and proved, I think conclusively, that the true course for the country and the Whig party, was to carry out the treaty in all its parts.

It is also not a little singular that in a speech thus devoted to the refutation of Mr. Webster, Mr. Dayton laid down and dwelt upon at considerable length, the position which Mr. Webster subsequently took up in discussing the compromise measures of 1850, namely, that California and New Mexico (the new territories acquired by the treaty) were entirely unadapted to slave labor, and therefore we needed no restriction on the subject of slavery in reference to it. Mr. Webster in his great speech of March 7, 1850, it will be recollected, declared that it wanted no Wilmot proviso to settle the question of slavery or no slavery in those regions—the God of Nature had settled it at the creation.

It is not a little singular that Mr. Webster and Mr. Dayton were then, also, on opposite sides.

An attempt was now made to organize territorial governments for Oregon, California and New Mexico. Various amendments being offered, and the slave question being again brought up, a compromise committee was appointed, to whom all the bills were referred. Mr. Clayton was chairman, and the other members were Messrs. Bright, Calhoun, Clarke, Atchinson, Phelps, Dickinson and Underwood. They were appointed July 11th, 1848, and on July 19th reported an omnibus bill of thirty-seven sections, to establish the territorial governments of Oregon, California and New Mexico. This bill, so far as related to Oregon, continued in force the provisional laws enacted by the people of that Territory (which prohibited slavery), until three months after the first meeting of the territorial legislature, and so far as

related to California and New Mexico, it left the question of slavery in *statu quo*, and prohibited any action on the subject by the provisional legislative bodies created by the act, leaving that question, as the committee said, to be settled by the Judges, with an appeal to the Supreme Court. If the right to carry and to hold slaves in those Territories really existed, the Court would so decide; if *not*, not. And in this way the committee believed the question would settle itself without further agitating the country.

Mr. Dayton voted against this bill. He was opposed to any legislation, *actively to be adopted* by Congress, which should continue in doubt the status of those new territories as to slavery. He was also especially opposed to any legislation which should throw the question upon the Supreme Court. On this last point his observations are noteworthy. He said:

"But, again, for one, I feel an utter aversion, an invincible repugnance to throwing, unnecessarily, the decision of this exciting question upon the Supreme Court of the United States. Let us blow off our own political steam, and that of our excited constituents, if we can. That Court is the sheet anchor of the hopes of conservatism in this country; if public feeling be excited—as it is said to be—I do not wish unnecessarily to see that Conrt stagger under the weight of this question. I do not want to see that Court forced into a position where it will have to decide an exciting question, having fifteen States of this Union upon one side, and fifteen upon the other. Drag that Court and your Judges into this scene of political strife, and the consequences may yet be deplored by us all.

"We cannot even hope, if we judge of the mind of the Supreme Court from the contrariety of opinion we have had here, that there will be unanimity upon that bench; and if not unanimity, this question will be tried over and over again. Appointments to the bench will be made in reference to it. You will then, sir, have dragged this tribunal—our last, our only hope—into the scene of political strife, and the end may be that you will see its dead body fastened to the triumphant car of one political party, as it shall ride over the prostrate principles and down-trodden battlements of the other."

The bill passed the Senate the same day (July 26th, 1848) 33 to 22; but in the House, it was contended by leading Whig members A. H. Stephens of Georgia in the number, that all the bill did was to postpone the question, not to settle it, or to give any peace to the country; and two days afterwards it was laid on the table by a vote of 114 to 96. This session passed without effecting any legislation for the new territories. A territorial act was passed for Oregon in August.

In the second session of the thirtieth Congress, ending March 3d, 1849, being the first session after the discovery of gold in California, and after the rush of an immense emigration thither, an attempt was made to admit California and all of New Mexico west of the Rio Grande, as a State. This Mr. Dayton, as well as the committee to whom the matter was referred, opposed. He thought the country was not yet prepared for a State Government, that the boundaries proposed were too extensive and vague, and that Congress could not constitutionally *create*, although it might *admit*, a new State. That the proper course was to establish first a territorial government, and when the population came, admit them as a State. An attempt was also made to extend the constitution over those territories and all such general laws of Congress as might be applicable to their condition. This Mr. Dayton opposed, on the ground that the constitution could not be extended by a mere law over territories where it did not operate *proprio vigore;* and that so to extend it, if it could be done, would, according to the views of Southern men, alter the status of the territories as to slavery. He would not have any such alteration made until the proper time should come for affixing a definite form to the institutions or government of those regions.

Nothing was done for the new territories at this session, except to extend the revenue laws to California, and direct that all infractions thereof should be tried in the District Court of Oregon.

Thus we are brought down to the administration of Gen. Taylor, and to the last session of Congress in which Mr. Dayton occupied a seat in the Senate. The duty of settling the grave and solemn questions which had been gathering to a head for several years was thus thrown upon the new administration. The President called around him as his constitutional advisers Messrs. Clayton, Meredith, Crawford, Preston, Collamer, Reverdy Johnson and Ewing. He was a Southern planter, and a blunt honest soldier, and true patriot. If ever man wished to do right, and that which was best for the whole country it was Zachary Taylor.

The final conflict came and the great and enduring compromise (as it was then supposed) was made at the first session of Congress which assembled under his administration.

Congress met as usual, on the first Monday in December, but the

house was not organized till Saturday the 24th of December, when Howell Cobb was elected speaker over Mr. Winthrop, by a plurality vote of 102 to 99, with 20 scattering.

The first message of President Taylor, was presented on the 24th. In it the President stated that the people of California, impelled by the necessities of their political condition, had recently met in Convention, (September, 1849) for the purpose of forming a Constitution and State Government; and it was believed they would shortly apply for admission into the Union as a State. Should they do so, he recommended their application to the favorable consideration of Congress.

The people of New Mexico, he stated, would also probably soon ask for like admission into the Union.

By awaiting their action, all causes of uneasiness might be avoided, and confidence and kind feeling preserved. With the view of maintaining the harmony and tranquility so dear to all, we should abstain, said the President, from the introduction of those exciting topics of a sectional character, which have hitherto produced painful apprehensions in the public mind; and he repeated the solemn warning of Washington, against furnishing any ground for characterizing parties by geographical discriminations.

But, notwithstanding this attempt of the President to nullify the political elements, they soon began to gather themselves preparatory to a terrible storm, and the compromise bills were not finally passed until the following September.

This session of Congress, the first and only one under President Taylor's administraton, as it was one of the longest, it was one of the most eventful and exciting ever held. It continued until the last day of September, 1850. It comprised all the great statesmen of that generation. Clay, Webster and Calhoun were there at its commencement, and each partook largely, and bore an important part, in its deliberations. Berrien, Benton, Cass, Chase, Douglass, Phelps, Seward, Badger, and Sam Houston were there. New Jersey was worthily represented by Messrs. Dayton and Miller. Mr. Calhoun made his last great efforts in this session, and died on the last day of March. The death of the President occurred on the 9th of July, and Mr. Fillmore left the Senate to assume the duties of the presi-

dency; and on the 22d, Mr. Webster was called to preside over the Department of State. Mr. Clay remained until the adjournment. The work of this session seemed to be the summing up of the great drama in which he and his illustrious compeers had so long been the chief actors.

The problem to be solved, if it could be solved, was, the settlement of the contest between the ahherents of slavery, and those who desired to abolish or restrain it. It involved several distinct questions. One was, whether slavery should or should not be permitted in the new territories acquired from Mexico. Another related to the true boundary of Texas. A third was as to the abolition of slavery and the slave trade in the district of Columbia. And the fourth, was the demand of the South for the passage of a more stringent law, for the rendition of fugitive slaves.

The first of these questions, had become ramified into several branches. It was well understood, and conceded, that Texas was slave territory; but the boundaries of Texas were disputed. Slavery had been abolished by Mexico; and hence it was contended by the anti-slavery portion of Congress, that all those territories which came to us directly from the recent cessions of territory by that country, were free. And although the extreme Southern element insisted that the citizens of slave states, had a constitutional right to emigrate with their slave property, as well as their other property, into all the government territories, yet they did not like to yield a certainty of right in whatever territory Texas was justly entitled to. Hence the settlement of the boundaries between Texas and New Mexico, was one of the difficult things to be determined. Again, the anti-slavery members insisted on the insertion of the Wilmot Proviso, into any acts passed for the government of Utah and New Mexico. As for California, her people had adopted a constitution prohibiting slavery forever, and early in the session her representatives applied for her admission into the Union. The President communicated this constitution and request to both Houses of Congress, on the 13th of February. He had alluded to the subject, as we have seen, in his annual message, and had recommended the admission of the State, without waiting for New Mexico and Utah.

This indicated the policy of the administration, to settle each

question upon its own merits as it arose. But this was not satisfactory to the South, nor to many of those who wished to effect a general compromise of the whole subject. Mr. Calhoun strenuously insisted that the Southern States could not remain in the Union with safety or honor, unless they had sufficient guaranties for the protection of their institution; and that no guaranties would be sufficient short of an amendment to the constitution. A large party led by Mr. Clay, deemed it feasible (as had been done by the Missouri Compromise) to allay the whole agitation by a general system of compromise measures, embracing all the subjects of controversy. Deferring, for this purpose, to those who advocated the Southern interests, they were opposed to the admission of California, with the constitution adopted by her, without at the same time maturing satisfactory dispositions of the other contested subjects.

On the 29th of January, Mr. Clay, who was not very ardently disposed to co-operate harmoniously with the administration, introduced a series of resolutions which in the main, formed the basis of what was afterwards agreed to. They declared that California ought to be admitted as a State, with the constitution which she had adopted; that governments ought to be organized in the other territories, without any restriction whatever for or against slavery; that Texas should extend Westerly to the Rio Grande, and Northerly to a line drawn from El Paso, to the South West angle of the Indian territory; (this was afterwards extended farther North) that the slave trade should be prohibited in the District of Columbia, but that slavery should not be abolished therein without the consent of Maryland; that a more effective law for the surrender of fugitive slaves should be passed. Mr. Clay sustained these resolutions, both at the time of their introduction and afterwards, by some of his ablest efforts. On the 4th of March, Mr. Calhoun made his great speech on the subject, which was read by Mr. Mason. On the 7th of March, Mr. Webster delivered that magnificent speech, which, it has always appeared to me, was his greatest senatorial effort.

Bills were introduced on the various subjects referred to, and a general committee was, finally appointed, with Mr. Clay at its head, who recommended their passage. In the end, however, they were all passed as separate laws, except those relating to the boundary of

Texas and the boundaries and government of New Mexico, which were united into one bill. Perhaps the fugitive slave law excited more opposition than any of the others.

Mr. Dayton, in these discussions, advocated generally the views of the President,—rather than the compromise projects of Mr. Clay and others. He expressed the belief that when the excited state of public feeling could be a little becalmed, there was really but little to quarrel about, and no necessity for a grand effort at compromise. His speech on the 23d of March, contained a very able argument in favor of the admission of California with the Constitution, which she had adopted. It also contained a strong argument against many of the features of the proposed fugitive slave bill. As to the other territories, New Mexico and Deseret, he thought there was no occasion to be in haste to provide governments for them. Let them stand as they are. As to what he should do when bills should be presented for that purpose, he remarked as follows:

"Well, Mr. President, I shall be asked, what then? will you vote for the Wilmot Proviso? Is that your principle? My answer is, that I am willing for the present—to stand upon the doctrine of "non-intervention" as to New Mexico and Deseret. But if you force me to a vote on this question; if a territorial bill be presented, and the ordinance of 1789 is moved, I will vote for it; but if voted down, I may yet vote for the bill; that will depend upon other circumstances. I have no doubt that the power to insert the ordinance exists. The power has been often exercised, but I do not care to see it exercised now in this case, if you are willing to stand upon the doctrine of "non-intervention. But then it will be asked, do you think slavery will go into the territories? If you do not, why should you vote for the Proviso? I do not think that slavery will go into these territories as a permanent or *principal* institution. Still, I think that if you will fill Texas with slaves up to the line, they will go over, just as they went into Illinois, where, at the last census, there seemed to be still some three hundred and twenty-odd. But if there were doubt in my mind, I confess a strong repugnance to having my vote stand on the record against the application of the ordinance of 1787, to territory now free; posterity will not stop to analyze very closely our reasons, or scrutinize our motives, but the vote will stand on record, carrying with it its own malconstruction. If it is understood that slavery cannot reach that country, it seems to me that the question has come down to a small point indeed. Why not insert the Proviso? We are told that it will offend the South; that it will touch their sensibilities. Now I do not want to do that; and yet if it be a question of sensibility between the North and the South, I suppose that I may say that there are as many persons in the North whose sensibilities will be touched by its omission, as there are persons in the South whose sensibilities will be touched by its

insertion. But now this great question (if it be admitted that slavery cannot go there) is whittled down to a point like this—a question of delicacy, a point of etiquette between the North and the South, and we have had all this war of words and intense excitement about a question of this kind. Why, California out of the way, never was there such an insignificant cause for such an uproar. We have the North and South contending with each other to desperation, upon the small chance (an admitted decimal only) of slavery going where it is said it cannot—into these territories now free. The subject matter is not worth the effort; "the play is not worth the candles." * * *

"Let us dispose of California first, and then the fugitive slave bill; we will thus have gotten rid of two of the greater elements of excitement. Then as to New Mexico and Deseret, let them alone; the South cannot very well secede, because we do nothing. In the meantime Nature will work off the disease itself. It is true the country will be fevered a little longer by this process, but that is better than any legislative pill or bolus, "warranted to kill or cure." Let nature take her course, and she will work her way through without ultimate injury to the constitution of the patient. The territories will take care of themselves." * * *

"I have no idea, Mr. President, that any considerable portion of the people of this country, desire disunion. At the North I am sure they do not; and the South, I think, can have no wish, with a view of getting rid of trivial evils, to rush into a state of things that will multiply them a thousand fold."

On the 11th and 12th of June, 1850, Mr. Dayton addressed the Senate on the compromise measures; objecting that they really effected nothing, but left the main question of difference, viz., slavery in the territories, to be disputed about and determined hereafter. He took strong ground in favor of the President's recommendation to treat the admission of California as a separate and distinct measure, standing on its own merits; and to consider and decide upon the establishment of territorial governments in Utah and New Mexico, and the establishment of the Texan boundary, as questions distinct from the other. He regarded the union of these measures into one bill (as recommended by Mr. Clay's committee), as a log-rolling device, intended to avoid the application of the Wilmot Proviso to the new territories, and thus to evade the most vital question of the day. He warned the Senate that the principles of this Proviso could not be quietly laid and disposed of in this manner. As to the necessity of territorial governments for these territories at this time, he doubted it; and he utterly repudiated, and by very strong argument disproved, the title of Texas to any part of New Mexico, for which it was proposed to give her several millions of

dollars. He also condemned the severity of the Fugitive Slave Law reported by the committee, and pointed out its unjust features and arbitrary character: that it gave a claimant power, on his own affidavit, taken *exparte* in a slave state, to seize a colored person as his slave in a free state, without trial by judge or jury; and thus conpromitted the dignity of the free states and took from them that prerogative of protection over their own citizens and inhabitants, which no state, whatever its obligations to other states, can surrender without dishonor.

This speech made a deep impression upon the Senate. Senator Foote, of Mississippi, very broadly hinted that in delivering it Mr. Dayton's eye was fixed on the other end of the avenue, and the rewards an administration always has at its command. "Whatever impression," said he, "the Honorable Senator from New Jersey may have made upon this body, or at this end of the avenue, in regard to the general soundness of his views, or in relation to the loftiness of his own motives (which I certainly shall not for a moment call in question), I feel certain that within the last twenty-four hours the Honorable gentleman has said enough, in that very able and eloquent speech to which we have been listening for the greatest part of two days, to establish the strongest and most lasting claims to the respect, friendship, and *gratitude* of certain official personages to be found at the other end of the avenue, in behalf of whom, and in defence of whose policy he has displayed a zealous devotedness which, if it should not be adequately requited in some way, I will think worse of human nature as long as I live. I say, sir, and I say it with profound sincerity and seriousness, that if the Honorable Senator from New Jersey shall not find hereafter that his generous exertions on this occasion are gratefully appreciated in a certain high quarter, he will, in my judgment, have much reason to complain of the coldness and injustice of those to whose rescue he has come at a moment when it was so necessary that they should be defended against the furious assaults which they are constantly receiving here and elsewhere."

Mr. Dayton replied with becoming dignity:

"I wish," said he, "to say in reply, but a word or two, and that will be only to express my entire ignorance of what the Senator means by his allusions to a

proper appreciation elsewhere of the value of my services, or by political rewards; and further to express my great regret, that the Senator from Mississippi should have thought it necessary and proper to refer here to anything of the kind. I repeat, sir, I do not know what the Senator means. I am profoundly ignorant of the point or intent of his insinuation. I can only say, sir, that I have spoken my own sentiments, and not the sentiments of another. I have not been much in the habit of intruding them frequently upon the Senate, perhaps as rarely as most gentlemen of this body. I have spoken earnestly, for that, is my temperament and habit; but I trust, with sufficient modesty, and a due regard to others, seeking no political rewards, and no recognition of services, valuable or otherwise, and caring nothing for such recognition one way or the other."

The speech, as I have said, produced a profound impression. It contained a great deal of solid argument, and sound sense; and much attention was given by subsequent speakers, who advocated the omnibus bill, to attempts at answering its positions.

The result of it all was, that although the omnibus bill of Mr. Clay was defeated, separate bills were passed and became laws on the 9th day of September, 1850, which embodied most of the provisions of that bill; and on the 18th of the same month, the fugitive slave bill; and on the 20th, the bill to suppress the slave trade in the District of Columbia, also became laws.

Thus was effected the third Great Compromise between the North and the South—all of which, as we have seen, have failed to ward off that awful conflict which has been enacted in our own days.

It may be well questioned whether Mr. Dayton was not right in counseling action in each case as it might arise, and meeting it manfully under a sense of duty to the country and the constitution.

In reviewing Mr. Dayton's senatorial career, we may briefly say: that he always frankly expressed, and ably enforced his own convictions on all the political issues of the day; that he was original in his conceptions, independent in his positions and dignified and courteous in his bearing; and, withal, was devotedly attached to the honor and dignity of his country, and to the inviolability of the Union. He fitly represented the noble state which selected him, and achieved for himself an honorable distinction among her many worthy sons who have occupied the same position.

For several years after his return to private life, Mr. Dayton assiduously devoted himself to the pursuits of his profession, being

almost invariably employed on one side or the other of every importantant cause litigated in the state courts.

In 1845, he was selected as one of the revisers of the state laws, in connection with Chancellor Green, Hon. P. D. Vroom and Judge Potts. The work of this commission was issued in 1847, in the volume of Revised Statutes, then published. In 1857, he was appointed Attorney General of the State, and occupied that position until he assumed the duties of minister plenipotentiary to France.

In 1856, he received the nomination of his party for Vice President, on the same ticket with Col. Fremont, being the first presentation of a National ticket, by the Republican party. Mr. Dayton was well understood to be conservative in his views, and perhaps it was on this account that he was chosen, to counter-balance in some measure the supposed radical tendencies of Col. Fremont. But the ticket was unsuccessful. Mr. Buchanan was elected President, and we had one more Presidential term, in which the politicians of the South were assiduously deferred to, and every attempt made to conciliate its people.

But all to no purpose. The great political whirlwind of 1860, carried into office the representative of the new party, and the southern states were goaded on by the inflammatory appeals of their political leaders, to carry out their long continued threats of disunion.

Mr. Dayton's part in the events which followed was a most important and trying one, and one which fitly became the crowning glory of his life; yet to which the nature of this address, will allow us to devote but a limited space.*

In March 1861, he was appointed by President Lincoln, minister plenipotentiary to France, at that time one of the most responsible positions in the gift of the Government. He arrived at his post on the 11th of May, and immediately put himself in communication with the French Government, then represented in the bureau of Foreign affairs by Mr. Thouvenel. He applied for an early presentation to the Emperor, which was granted on the 19th of the same month.

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* A more detailed account of Mr. Dayton's services as minister to France, is given by Mr. Elmer in his "Sketches of the Bench and Bar of New Jersey," published by the Society since the preparation of this address.

This interview was very satisfactory to Mr. Dayton. The Emperor after a courteous welcome and some remarks personally complimentary to himself, said, in substance, that he felt great interest in the condition of things in our country; that he was very anxious our difficulties should be settled amicably, that he had been and yet was ready to offer his kind offices, if such offer would be mutually agreeable to the contending parties, that whatever tended to affect injuriously our interests was detrimental to the interests of France, and that he desired a perpetuation of the Union of the States. From this time forward until his death, Mr. Dayton's personal relations at the French Court were of the most agreeable kind. He very soon acquired the entire confidence of the Emperor and of his ministers in his candor and truth, so much so, that it has been known more than once to occur, when our affairs were under discussion between the Emperor and his minister of foreign affairs, and any question arose as to the exact state of facts, the minister would say—"I know it must be, so your majesty, for Mr. Dayton told me so." This reference was always considered satisfactory. The anecdote speaks well, not only for Mr. Dayton, but for the Emperor's just appreciation of honorable character. Personally he always received the most uniform kindness and consideration at the hands of the Court.

Mr. Dayton's sound sense and discriminating judgment undoubtedly stood the Country he represented in good stead throughout the entire period of his ministry. The most unreserved confidence subsisted between him and M. Druyn De L'Huys. Mr. Dayton never hesitated in impressing upon our government at home the truth of any representations made to him in their intercourse. Nor was he deceived. He had too much of the respect of M. Druyn De L'Huys and the Emperor, to be made the object of deception.

The course taken by the imperial government in recognizing with England the belligerent rights of the South, was not satisfactory to to Mr. Dayton, nor to our government, it is true, but it was frankly communicated, and the reasons for it plausibly urged.

We have great reason to be gratified at the manner in which our foreign affairs were managed at Paris, as well as in England. Such was the eagerness of the English and French people to do us injury, and to profit by our misfortunes, that any thing else than very

able, efficient, and assiduous representatives, on our behalf, at the English and French Courts, must have resulted in disastrous consequences.

Mr. Dayton lived to receive the welcome news of the victorious progress of our arms under Generals Sherman and Thomas in the South West; and the firm grasp which General Grant, with the army of the Potomac had secured on the central power of the Confederacy at Richmond. The dire civil strife in which the country had been so long engaged, was nearly over, and the friends of the Union had begun to congratulate themselves upon the approaching restoration of the national authority, and return of peace. But Mr. Dayton, who had the ultimate triumph of the cause so much at heart, was not permitted to see the end. On December 1st, 1864, he died suddenly at Paris whilst making an evening call at the rooms of a friend. His death, so sudden, so unexpected, produced a painful shock both in France and in this Country, and most of all, in this his native State. What a mysterious Providence! In the full vigor and maturity of body and mind, in the very culmination of his large intellect, he instantaneously dropped out of this busy scene. There was no decline of his powers, physical or mental. His sun went down at noon-day. Without a warning, without a farewell to his family or his friends, he ceased to live. Is this, or is it not, a happy termination of earthly existence? It may be deemed a difficult question to decide. But it leaves one very forcible impression on the mind—this cannot be the end. It cannot be possible, that such faculties, and powers of action and enjoyment can be instantly annihilated. Either there is no Supreme Ruler and Governor of all, or the soul must be immortal.

It is unnecessary to attempt a portraiture of his character. If successful in sketching his life, I have sketched his character. Every man's life is the true expression of his character. He draws it himself. There it is, as he made it. And that of our deceased friend needs no touches of the pencil to embellish his.

The estimation in which he was held at home is well known to us all. Neither does anything need to be added on that subject. But it is proper, perhaps, to call attention for a moment to the estimation in which he was held abroad.

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The Paris "Constitutional," on announcing his death in a semi-official notice, said:

"Mr. Dayton, prematurely removed from the esteem of all who knew him, carries away universal regret. As we have already said, the honorable diplomatist was one of the inheritors of the wise and noble traditions bequeathed to their country and to history by the founders and the chief statesmen of the American Republic. He belonged to the school of Washington and Franklin. A Minister in France while his country was passing through the most terrible crisis, and amid delicate circumstances, Mr. Dayton avoided, by the courtesy of his manners, the prudence of his language and the moderation of his mind, many complications and embarrassments. The United States lose in Mr. Dayton an eminent citizen, and to-morrow we shall accompany with respect the coffin of the wise politician and the honest man."

The Paris "Debats" speaks as follows:

In a delacate position, the representative of a country torn by civil war, and often impeded by skillful adversaries, we find Mr. Dayton acting with a prudence and measure that cannot be too highly praised. It must be admitted, too, that he found in M. Druyn De L'Huys a minister of foreign affairs who had not forgotten the old traditions of friendship between France and the United States, and that the greatest difficulties are easily settled when there is on both sides perfect candor and a sincere desire to mutually avoid everything that can envenom excellent and old-established relations. But we shall be contradicted by no one when we affirm that the upright conduct and frankness of Mr. Dayton contributed to a great extent to the cordiality which has prevailed between the two countries.

The "Opinion Nationale," after giving a sketch of the deceased Minister's life and public services, added:

"The honorable gentlemen fulfilled his diplomatic functions with a rectitude and tact which procured him the esteem of even his political adversaries; and, assuredly he had to take an active part in a whole series of important and delicate questions. It will suffice to mention the affair of the *Trent*—the repeated visits of the Confederate war vessels to ports of France—the different phases of the Mexican expedition—the offers of European mediation rejected by the United States—and the building of war vessels for the South at Nantes and Bordeaux. In all these difficult circumstances he always had a safe rule of conduct, an infallible guide—political probity."

These eulogies give but a fair indication of the esteem in which our deceased friend was held by the eminent statesmen with whom he came in contact, in the country to which he was accredited.

His name has indeed been inscribed on the roll of the HONORABLE DEAD.

Mr. Dayton at the time of his death, was fifty-seven years of age. Though not old in years, his life was a full, well rounded life. Depending, from the first, mainly on his own exertions, and ever faithful to his own cherished doctrine of the virtue of self-reliance, he performed his part ably and well. By his own efforts he advanced progressively from one degree of eminence and dignity to another. His influence on his generation was healthful and beneficent. He left his children a legacy of honor in the heritage of an unsullied name, and of inestimable value, in the lessons of his own self-reliant life. To his State and Country, his career adds another to that roll of bright examples, which so gloriously illustrates the excellence of our free institutions, in producing the highest and purest forms of individual character and exalted public virtue.

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